

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

TONY LEE SMITH.

Plaintiff,

v.

POLICE CHIEF STANLEY MERRILL,)
et al.,)

Defendants.

1:06-CV-0511-VEH-RRA

MEMORANDUM OPINION

The magistrate judge filed a report and recommendation on August 16, 2007, recommending that defendants' motion for summary judgment be granted as to all of plaintiff's claims against Chief Stanley Merrill and Louie LeFoy and that those claims be dismissed. It was further recommended that defendants' motion for summary judgment be denied as to plaintiff's claim of excessive force against Officers Brett Williams and Scott Glanze. The parties were allowed fifteen (15) days to file written objections to the magistrate judge's recommendations. Plaintiff filed objections to the report and recommendation on August 28, 2007. (Doc.#44)

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, and the objections filed by the plaintiff, the Court is of the opinion that the magistrate judge's report is due to be and

is hereby **ADOPTED** and the magistrate judge's recommendation is **ACCEPTED**.

The Court **EXPRESSLY FINDS** that there are no genuine issues of material fact with regard to plaintiff's claims against Chief Stanley Merrill and Louie LeFoy and that these defendants' motion for summary judgment is therefore due to be granted, while the claims of excessive force against Officers Brett Williams and Scott Glanze are due to proceed. An appropriate order will be entered.

DONE this 26th day of September, 2007.

A handwritten signature in black ink, appearing to read "V. Emerson Hopkins", is written over a horizontal line.

VIRGINIA EMERSON HOPKINS

United States District Judge